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10/677,004	10/01/2003	Christina Hsu	200208014-1	7237

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EXAMINER
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DAO, THUY CHAN

ART UNIT	PAPER NUMBER
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2192

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09/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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## Office Action Summary

Application No.

10/677,004

Applicant(s)

HSU ET AL.

Examiner

Thuy Dao

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. In view of the Appeal Brief (hereinafter "Brief") filed on May 29, 2007, PROSECUTION IS HEREBY REOPENED. A new ground of rejection has been set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

2. Claims 1-24 have been examined.

### **Response to Arguments**

3. The Applicants are thanked for a thorough reply. Applicants' arguments have been considered but are moot in view of the new ground(s) of rejection.

### **Specification**

4. The use of the trademarks JAVA.TM., JAVABEANS.TM., JAVASERVER PAGEG.TM., J2EE.TM., ... has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. Appropriate correction is required.

### Claim Rejections – 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. As set forth in the previous Office action mailed January 26, 2007 and August 7, 2006, claims 1-7 and 15-21 are rejected because the claimed invention is directed to non-statutory subject matter. They amount to Functional Descriptive Material: "Data Structures" representing descriptive material per se or "Computer Programs" representing computer listings per se.

**Claims 1 and 15:**

Claims 1 and 15 recite "A system for creating web applications ...", which comprises only software components (i.e., "*a controller generator*" and "*a configurator generator*").

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory (emphasis added).

Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being

performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035. Accordingly, it is important to distinguish claims that define descriptive material per se from claims that define statutory inventions (emphasis added). See MPEP 2106.01(I).

#### **Claims 2-7 and 16-21:**

Claims 2-7 and 15-21 further recite functional descriptions of said software components and do not redemy the deficiencies of independent claims 1 and 15, respectively.

Under the principles of compact prosecution, claims 1-7 and 15-21 have been examined as the Examiner anticipates the claims will be amended to obviate these 35 USC § 101 issues. For example (for proposal only), - -A system stored on a machine readable medium for creating web applications, ...- - as recited in independent claim 22 and in view of FIG. 2 and paragraph [0017], "...*The illustrated WPA 100, which may be adapted to execute on a processor-based device such as a computer system or the like...*".

#### **Claim Rejections – 35 USC § 102**

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Publication No. 2001/0034771 A1 to Hutsch et al. (art made of record, hereinafter "Hutsch").

**Claim 1:**

Hutsch discloses *a system for creating web applications* (e.g., FIG. 3A, [0115]; FIG. 8, [0234-0245]), *the system comprising:*

*a controller generator that is adapted to provide a web application with a controller that receives a request for data from a user and responds to the request by sending information to the user* (e.g., FIG. 8, Web Server 320 provides web applications to Client Browser 304 after receiving HTTP request, [0237-0245]; [0178-0181]); *and*

*a configurator generator that is adapted to provide a configurator that loads configuration information for use by the controller from a configuration file and stores the configuration information for subsequent access* (e.g., loading/accessing Configuration files [0165], [0176], [0237];

FIG. 8, Configuration Service 336, Profiling Service Configuration File 802, Profiling Service 801, [0237-0239], [0115];

FIG. 15, Configuration Databases 337, Cache 1560 in Configuration Server, [0346-0356]); *and*

[0239], [0327-0329], *caching configuration information for subsequent access*).

**Claim 2:**

The rejection of claim 1 is incorporated. Hutsch also discloses *the configuration file is a text properties configuration file* (e.g., [0029]).

**Claim 3:**

The rejection of claim 1 is incorporated. Hutsch also discloses *the configurator is adapted to store the configuration information as a singleton object* (e.g., [0239], [0327-0329]).

**Claim 4:**

The rejection of claim 1 is incorporated. Hutsch also discloses *the configuration information comprises error handling information* (e.g., [0460]).

**Claim 5:**

The rejection of claim 1 is incorporated. Hutsch also discloses *the configuration information comprises log processing information* (e.g., [0409]).

**Claim 6:**

The rejection of claim 1 is incorporated. Hutsch also discloses *the configuration information comprises data that is specific to each of a plurality of portals* (e.g., [0021-0023]).

**Claim 7:**

The rejection of claim 1 is incorporated. Hutsch also discloses *the configurator is adapted to read the configuration information upon initialization of the controller* (e.g., [0239]).

**Claim 8:**

Hutsch discloses *a method of creating web applications, the method comprising:*

*creating, with a processor-based device, a controller that receives a request for data from a user and responds to the request by sending information to the user* (e.g., FIG. 8, Web Server 320 provides web applications to Client Browser 304 after receiving HTTP request, [0237-0245]; [0178-0181]); *and*

*providing a configurator that loads configuration information for use by the controller from a configuration file and stores the configuration information for subsequent access* (e.g., loading/accessing Configuration files [0165], [0176], [0237];

FIG. 8, Configuration Service 336, Profiling Service Configuration File 802, Profiling Service 801, [0237-0239], [0115];

FIG. 15, Configuration Databases 337, Cache 1560 in Configuration Server, [0346-0356]); and

[0239], [0327-0329], caching configuration information for subsequent access).

**Claim 9:**

The rejection of claim 8 is incorporated. Hutsch also discloses *defining the configuration file to be a text properties configuration file* (e.g., [0029]).

**Claim 10:**

The rejection of claim 8 is incorporated. Hutsch also discloses *adapting the configurator to store the configuration information as a singleton object* (e.g., [0239], [0327-0329]).

**Claim 11:**

The rejection of claim 8 is incorporated. Hutsch also discloses *defining the configuration information to comprise error handling information* (e.g., [0460]).

**Claim 12:**

The rejection of claim 8 is incorporated. Hutsch also discloses *defining the configuration information to comprise log processing information* (e.g., [0409]).

**Claim 13:**

The rejection of claim 8 is incorporated. Hutsch also discloses *defining the configuration information to comprise data that is specific to each of a plurality of portals* (e.g., [0021-0023]).

**Claim 14:**



The rejection of claim 8 is incorporated. Hutsch also discloses *adapting the configurator to read the configuration information upon initialization of the controller* (e.g., [0239]).

**Claim 15:**

Hutsch discloses *a system for creating web applications, the system comprising:*

*means for creating a controller that is adapted to receive a request for data from a user and respond to the request* (e.g., FIG. 8, Web Server 320 provides web applications to Client Browser 304 after receiving HTTP request, [0237-0245]; [0178-0181]); *and*

*means for creating a configurator that loads configuration information for use by the controller from a configuration file and stores the configuration information for subsequent access* (e.g., loading/accessing Configuration files [0165], [0176], [0237];

FIG. 8, Configuration Service 336, Profiling Service Configuration File 802, Profiling Service 801, [0237-0239], [0115];

FIG. 15, Configuration Databases 337, Cache 1560 in Configuration Server, [0346-0356]); *and*

[0239], [0327-0329], *caching configuration information for subsequent access*).

**Claim 16:**

The rejection of claim 15 is incorporated. Hutsch also discloses *the configuration file is a text properties configuration file* (e.g., [0029]).

**Claim 17:**

The rejection of claim 15 is incorporated. Hutsch also discloses *the configurator is adapted to store the configuration information as a singleton object* (e.g., [0239], [0327-0329]).

**Claim 18:**

The rejection of claim 15 is incorporated. Hutsch also discloses *the configuration information comprises error handling information (e.g., [0460])*.

**Claim 19:**

The rejection of claim 15 is incorporated. Hutsch also discloses *the configuration information comprises log processing information (e.g., [0409])*.

**Claim 20:**

The rejection of claim 15 is incorporated. Hutsch also discloses *the configuration information comprises data that is specific to each of a plurality of portals (e.g., [0021-0023])*.

**Claim 21:**

The rejection of claim 15 is incorporated. Hutsch also discloses *the configurator is adapted to read the configuration information upon initialization of the controller (e.g., [0239])*.

**Claim 22:**

Hutsch discloses *a machine readable medium, comprising:*

*a controller generator stored on the machine readable medium, the controller generator being adapted to provide a web application with a controller that receives a request for data from a user and responds to the request by sending information to the user (e.g., FIG. 8, Web Server 320 provides web applications to Client Browser 304 after receiving HTTP request, [0237-0245]; [0178-0181]); and*

*a configurator generator stored on the machine readable medium, the configurator generator being adapted to provide a configurator that loads configuration information for use by the controller from a configuration file and stores*

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*the configuration information for subsequent access (e.g., loading/accessing Configuration files [0165], [0176], [0237];*

FIG. 8, Configuration Service 336, Profiling Service Configuration File 802; Profiling Service 801, [0237-0239], [0115];

FIG. 15, Configuration Databases 337, Cache 1560 in Configuration Server, [0346-0356]); and

[0239], [0327-0329], caching configuration information for subsequent access).

**Claim 23:**

The rejection of claim 22 is incorporated. Hutsch also discloses *the configurator generator is adapted to produce a configurator that stores the configuration information as a singleton object (e.g., [0239], [0327-0329]).*

**Claim 24:**

The rejection of claim 22 is incorporated. Hutsch also discloses *the configurator generator is adapted to produce a configurator that reads the configuration information upon initialization of the controller (e.g., [0239]).*

**Conclusion**

9. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone is (571) 272 8570. The examiner can normally be reached on every Tuesday, Thursday, and Friday from 6:00AM to 6:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. Dao



**TUAN DAM**  
**SUPERVISORY PATENT EXAMINER**